

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER:	2009.03
COMPLAINT INVESTIGATOR:	Sally Cook
DATE OF COMPLAINT:	March 5, 2003
DATE OF REPORT:	April 3, 2003
REQUEST FOR RECONSIDERATION:	no
DATE OF CLOSURE:	June 18, 2003

COMPLAINT ISSUES:

Whether Gary Community School Corporation violated:

511 IAC 7-27-2(a) and (b) by failing to contact the parent in order to schedule the CCC meeting at a mutually agreed upon date and time.

511 IAC 7-27-3(a) by failing to ensure that the CCC participants on January 23, 2003, included the teacher of record.

511 IAC 7-27-6(a)(10) by failing to include in the IEP an identification of the placement in the least restrictive environment.

511 IAC 7-27-7(a) by failing to implement the IEP as written, with respect to one-to-one paraprofessional services.

511 IAC 7-27-6(a)(2) by failing to develop an IEP that contains a statement of measurable annual goals that describe what the student can be expected to accomplish within a twelve (12) month period, including benchmarks or short term objectives.

During the course of the investigation, the School Corporation and the Parent were notified that a restatement of the third issue was added to the investigation, and the third issue, as originally formulated, was removed from the investigation:

511 IAC 7-27-5(a)(5) and 511 IAC 7-22-2(d)(3) by failing to include in the Case Conference Report/IEP the reasons for the placement determination, including a description of any options considered and why those options were rejected.

FINDINGS OF FACT:

1. The Student is eight (8) years old and is eligible for special education and related services due to a moderate mental disability, autism spectrum disorder, and a communication disorder.
2. In November, 2002, the Student's Parent contacted the School to request a case conference committee ("CCC") meeting. It is undisputed that during November and December, 2002, the Parent and the school social worker had several communications regarding dates and time of day for CCC meetings during December, 2002. The Parent made it known that a meeting time before 2:00 pm was not

agreeable. For various reasons, the CCC meeting was not held in December, and the Parent agreed to wait until January, 2003.

3. The School has provided no documentation of attempts to contact the Parent in January, 2003, to discuss possible dates for the CCC meeting. The CCC meeting was scheduled for January 23, 2003, and a Notice was mailed to the Parent on January 16, 2003. The Parent received the Notice January 20, 2003, and did attend the CCC meeting.
4. The Notice form typically used by the School Corporation refers to a "proposed" date/time, provides the name and telephone number of a person to contact, and states:

"Please make every effort to arrange your schedule for this time, as the schedules of several persons are involved. If you wish to attend and find it impossible to do so at the proposed time, please notify me as soon as possible. If no such notification is received, the meeting will be held at the proposed time."

5. The Student's classroom teacher (the "SMD Teacher") attended the CCC meetings held January 22, 2002, and January 23, 2003. The SMD Teacher signed the CCR/IEPs for both dates, on a line for the teacher of record. The SMD Teacher was identified as the Student's teacher of record for Child Count on December 1, 2001, and December 1, 2002, and is appropriately licensed to be the Student's teacher of record.
6. The Student's CCR/IEP dated January 22, 2002, indicates that the Student's placement was special education instruction for the entire instructional day in a general educational setting, and indicates that each less restrictive option was considered. At the bottom of the list of placement options, a brief statement explains why placement in general education setting would be inappropriate for the Student.
7. It is undisputed that on January 22, 2002, the case conference committee agreed that the SMD Teacher and the MoMD teacher were to share responsibilities, with the Student spending some time in each classroom on a trial basis. This two-classroom arrangement is not documented in the January 22, 2002, CCR/IEP and was not continued throughout the year.
8. The Student's CCR/IEP developed at the CCC meeting February 27, 2001, listed one-to-one paraprofessional service as a need and listed paraprofessional service as a support for personnel and related service for the Student. It is undisputed that one-to-one paraprofessional service was provided during the eleven-month period that this CCR/IEP was in effect.
9. The Student's CCR/IEP dated January 22, 2002, does not list one-to-one paraprofessional service in the IEP. An explanation for the change from the preceding IEP is found in the Student's present levels of performance, where there is a statement that the Student depends solely on the paraprofessional and needs to be more independent. The Parent indicated agreement by signing the IEP.
10. The Student's CCR/IEP dated January 23, 2003, includes the following annual goals:
 - #1 Improve readiness skills
 - #2 Improve self-help skills
 - #3 Improve communication skills
11. The Student's CCC met again on March 25, 2003. The CCR/IEP dated March 25, 2003, revised two goals by referencing performance levels of the IASEP alternate assessment, and added a new goal, as follows:

- #1 Increase readiness skills to pre-K participation level
- #2 Increase self-help skills to emergent level (domestic)
 - Improve cognitive perceptual and visual motor skills.
 - Improve communication skills

CONCLUSIONS:

1. Findings of Fact #2, #3, and #4 indicate that the School scheduled the January 23, 2003, case conference committee meeting at a mutually agreeable time of day and notified the Parent of the person to contact if the proposed date was not agreeable. Although documentation is lacking, Finding of Fact #2 indicates that it is undisputed that telephone communications occurred during December, 2002. Therefore, no violation of 511 IAC 7-27-2(a) or (b) occurred.
2. Finding of Fact #5 indicates that the Student's teacher of record attended the case conference committee meeting on January 23, 2003. Therefore, no violation of 511 IAC 7-27-3(a) occurred.
3. Finding of Fact #6 indicates that the CCC/IEP met minimum requirements for recording and notice of reasons for placement decisions. Finding of Fact #7 describes matters involving location changes, not changes of special education placement. Therefore, no violation of 511 IAC 7-27-5(a)(5) and 511 IAC 7-22-2(d)(3) occurred.
4. Finding of Fact #8 indicates that, when the Student's IEP called for one-to-one paraprofessional service, the service was provided. Finding of Fact #9 indicates that, when one-to-one paraprofessional services was not provided, the service was not called for by the Student's IEP. Therefore, there was no violation of 511 IAC 7-27-7(a) with respect to one-to-one paraprofessional services.
5. Finding of Fact #10 indicates that the goals of the Student's Case Conference Report/IEP dated January 23, 2003, are not measurable. Therefore, a violation of 511 IAC 7-27-6(a)(2) occurred. However, Finding of Fact #12 indicates that the case conference committee took corrective action on March 25, 2003, with respect to two of the goals.

The Department of Education, Division of Exceptional Learners requires corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

By May 9, 2003, Gary Community School Corporation shall reconvene the Student's case conference committee to rewrite two of the Student's IEP goals in measurable terms. (The case conference committee may reconvene by telephone.) A copy of the IEP goal pages shall be submitted to the Indiana Department of Education, Division of Exceptional Learners by May 16, 2003.